



W.P.No.24824 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.24824 of 2017
and W.M.P.No.26229 of 2017

D.P.D.No.261,
Vallimalai Milk Producers Co-operative Society,
Rep. by its Secretary,
Tmt.D.Girija,
W/o.Dhanasekaran,
Vallimalai Post,
Katpadi Taluk,
Vellore (Dt.) Pin.: 632 520. ... Petitioner

Vs.

1.The Principal Labour Court,
Vellore District at Vellore.

2.N.Ponnurangam (Died)

3.P.Venda
[No.144, Big Street, Vallimalai,
Katpadi Taluk,
Vellore District – 632 520.

[R3 substituted as LR of deceased R2
vide order dated 11.09.2023 made in
WMP.No.26088 of 2023 in
W.P.No.24824 of 2017 by MDIJ] ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,



W.P.No.24824 of 2017

to issue a Writ of Certiorari, calling for the records of the Award vide I.D.No.173/2015 dated 17.05.2017 passed by the Principal Labour Court, Vellore District, the 1st respondent herein, quash the same.

For Petitioner : Mr.R.Sethu Pandian
For R1 : Court
For R2 : No appearance
For R3 : Mr.K.P.Gnanasekaran

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ORDER

This Writ Petition is filed to call for the records of the Award in I.D.No.173/2015 dated 17.05.2017 passed by the Principal Labour Court, Vellore District, the 1st respondent herein and to quash the same.

2.The Management will be referred to as the petitioner and the workman will be referred to as the respondent.

3.It was the case of the petitioner that the respondent was employed as a milk measurer on temporary basis in the petitioner society on 10.05.2000. On 06.07.2008, the respondent submitted a form for regularization. In the



W.P.No.24824 of 2017

said form, the respondent gave his date of birth as 04.06.1957 and also stated that he studied upto 7th standard. Though the respondent was repeatedly directed to produce documentary proof of his original Date of Birth, he did not produce the same till his retirement. On 21.09.2012, the respondent was suspended from service for a misconduct and also for the reason that he was always under influence of the liquor, during the working hours. The respondent was further warned several times not to come to work under influence of the liquor, but he did not obey. However, the petitioner taking a lenient view revoked the suspension order on 03.01.2013, on the basis of the written undertaking dated 28.12.2012 from the respondent that he would not consume liquor while on duty. The petitioner thereafter reinstated the respondent. The respondent also sought payment of subsistence allowance for the period from 22.09.2012 to 02.01.2013. Meanwhile, on 05.03.2013 the Special Officer who inspected the records of the petitioner Society observed that the Date of Birth of the respondent was 09.09.1954 and hence he ought to have been retired from service on 30.09.2012 itself. Therefore on 05.03.2013 the petitioner superannuated the respondent and paid him consequential terminal benefits. The respondent thereafter raised a dispute under Section 2 A (2) of the Industrial Dispute Act, 1947 stating that



W.P.No.24824 of 2017

his date of birth was 04.06.1957 and not 09.09.1954 and therefore he was entitled to continue in service till 30.06.2015 along with backwages and other benefits.

4.The respondent's case before the Labour Court was that his original Date of Birth was 04.06.1957, but the petitioner society on a misconception that his Date of Birth was 09.09.1954 retired him from service on 30.09.2012. As the petitioner retired the respondent prematurely, the respondent raised a dispute challenging the retirement order dated 05.03.2013 issued by the petitioner's society.

5.The Labour Court on the basis of the materials placed before it allowed the ID by setting aside the impugned order dated 05.03.2013 and further directed the petitioner to sanction backwages with other monetary benefits to the respondent till 03.06.2015. Aggrieved by the award of the Labour Court, the petitioner has filed the above writ petition.

6.The crux of the issue is whether the retirement order dated 05.03.2013 on the basis that the respondent's Date of Birth was 09.09.1954 is



W.P.No.24824 of 2017

sustainable or not.

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7.The learned counsel appearing for the petitioner submitted that the respondent at the time of joining the service gave the particulars of his Date of Birth, wherein he stated that he was born on 09.09.1954. It was only at the time of regularization of the service that the respondent produced the school certificate mentioning his date of birth as 04.06.1957, but from the letter of the school it was clear that the certificate was a bogus certificate. The learned counsel submitted that the Labour Court failed to appreciate the petitioner's case in proper perspective and erroneously passed the award.

8.The learned counsel for the respondent on the other hand submitted that the award of the Labour Court was fair and proper and the same did not call for any interference.

9.At the time of hearing the learned counsel for the respondent was specifically asked by this Court as to whether the school certificate was produced by the respondent or not. The learned counsel admitted that the school certificate was produced by the respondent.



W.P.No.24824 of 2017

WEB COPY 10. It is seen that the respondent at the time of joining service himself gave his Date of Birth as 09.09.1954. It was only at the time of his regularisation that he produced the School Certificate. Thereafter the President of the petitioner society vide letter dated 24.01.2014 addressed to the Assistant Education Officer, Suburban Walajah Taluk, Vellore District requested him to produce the copy of records of the respondent's Date of Birth. The Additional Assistant Primary Education Officer, Walajahpet, Vellore District vide letter dated 22.08.2014 replied that the correctness of the date of Birth Certificate produced by the respondent was verified with the original records of the school and it was found that there was no reference or evidence nor entry relating to the respondent in the school records. It was further stated that the school was a primary school and there was no middle school as stated in the certificate. Therefore, it is clear that the certificate produced by the respondent was not issued by the school. In the light of the specific stand of the school, it is clear that the certificate produced by the respondent was fabricated and bogus one. As the respondent produced a bogus certificate and did not prove his date of birth in a manner known to law, the petitioner is not entitled to challenge the order dated 05.03.2013,



W.P.No.24824 of 2017

superannuating him. In the light of the above discussion, I find that the award of the Labour Court cannot be sustained and the same is set aside.

11. Accordingly, the writ petition is allowed. There shall be no order as to costs. Consequently the connected miscellaneous petition stands closed.

02.01.2024

Index : Yes / No
Internet : Yes / No
Speaking order/Non-speaking order
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To

The Principal Labour Court,
Vellore District at Vellore.



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W.P.No.24824 of 2017

N.MALA, J.
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W.P.No.24824 of 2017



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W.P.No.24824 of 2017

02.01.2024